

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE
APPLICATION BY DEUEL HARVEST
WIND ENERGY, LLC FOR A PERMIT
OF A WIND ENERGY FACILITY AND
A 345-kV TRANSMISSION LINE IN
DEUEL COUNTY**

* **INTERVENOR CHRISTINA KILBY’S**
* **ARGUMENT IN OPPOSITION OF**
* **DEUEL HARVEST’S MOTION TO**
* **EXCLUDE TESTIMONY RELATED TO**
* **LOCAL LAND USE DECISION**
*
* **EL18-053**

ARGUMENT

Deuel Harvest understandably seeks to prevent testimony regarding how Deuel Harvest’s permit application and hearing were handled in Deuel County. Deuel Harvest has been very involved with county processes including amending ordinances, granting runway permits, and providing opinion on whether board members had conflicts of interest or not. Deuel Harvest was complicit in due process violations.

Testimony and exhibits regarding Deuel Harvest’s past actions in Deuel County as well as how the Project will comply with county ordinances is probative on the material issue of whether the Project will meet the requirements under SDCL 49-41B-22. Specifically, this testimony and evidence is required for the Commission to determine whether the Project will comply with all applicable laws and rules, whether the Project will unduly interfere with the orderly development of the region, and whether the Project will impair the health, safety or welfare, or pose a threat to the social condition of the inhabitants.

Deuel Harvest may at some point request the Commission give deference to Deuel County ordinances and decisions. Therefore, the Commission should understand the rationale

behind ordinance amendments, how the ordinances are interpreted, and how they will be administered. And because Deuel Harvest is seeking a permit from the PUC prior to receiving a county permit, I am concerned that the County Board of Adjustment will simply defer to the PUC's decision and fail to review or follow the Deuel County Ordinances upon Deuel Harvest's reapplication for a special exception permit.

In addition, to the extent Deuel Harvest attempts to use a letter of assurance to claim turbines are allowed to create safety risks for the Homan runway, I ask that evidence and testimony be allowed to describe the situation surrounding the Board of Adjustment at that time and the impropriety of the letter of assurance.

For these reasons, I request the Commission deny Deuel Harvest's Motion to Exclude this probative testimony and evidence.

Dated: April 9, 2019

/S/ Christina Kilby

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